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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,005	08/06/2001	Juergen Bruegl	951/49937	6897

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CROWELL & MORING LLP  
P.O. Box 14300  
Washington, DC 20044-4300

EXAMINER

CALEY, MICHAEL H

ART UNIT	PAPER NUMBER
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2882

DATE MAILED: 01/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/922,005

Applicant(s)

BRUEGL ET AL.

Examiner

Michael H Caley

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 08/06/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### DETAILED ACTION

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerwers.

Regarding claim 1, Gerwers discloses:

a scope probe having:

a picture source (Figure 1, end of element 14);

a picture transmission device including a fiber optics section (Figure 1 element 12; Column 1 lines 55-60) which is at least partially surrounded by a material which is bendable and which remains in the shape assumed by the bending (Column 2 lines 59-61);

an eyepiece (Figure 1 element 76).

Regarding claim 5, Gerwers discloses:

a picture source (Figure 1, end of element 14);

an eyepiece (Figure 1 element 76);

an elongate plastically deformable picture transmission device which mechanically and optically couples said picture source and said eyepiece.

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Regarding claim 6, Gerwers discloses the picture transmission device as a fiber optic section (Column 1 lines 55-60). The plastically deformable sheathing surrounds at least a part of the fiber optic section (Figure 1 element 12).

Regarding claim 7, the sheathing comprises a metallic material (Column 2 lines 59-61).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cole (U.S. Patent No. 3,740,115) in view of Gerwers.

Regarding claims 1, Cole discloses:

a fiberscope having:

a picture source (Figure 1, element 12, A);

a picture transmission device including a fiber optics section (Figure 1 element 22;

an eyepiece (Figure 1 element 64).

Cole discloses the sheathing (Figure 1 element 66) as flexible (Column 4 lines 30-37), but is silent on whether the material exhibits a property of remaining in the shape assumed by bending. Gerwers, however, describes several embodiments of a protective sleeve for scope probes in which the sleeve remains in a shape assumed by bending it (Column 2 lines 59-64; Column 3 lines 1-4). "Bellows-like flexible stainless steel" and "shape-memory alloy" as

described in the reference are both considered by the Examiner to have a property in which the material remains in a shape assumed by bending and furthermore is a material designed and suitable for bending.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used sheathing with a shape memory property in Cole's fiberscope design as a means of protecting the optical fibers and assuring that the fiberscope remains in an intended orientation after placement. Such a design would allow for the fiberscope to be placed without further constraints or restrictive elements to maintain the orientation and shape of the fiberscope. The addition of a sheathing with shape memory would be advantageous in applications in which it is desired that the fiberscope maintain a predetermined orientation, but no constraint or restrictive element is available outside of the fiberscope to maintain its shape and orientation, such as inserting the fiberscope into a chamber as described by Gerwers (Figure 1).

Regarding claim 2, Cole discloses a setting mechanism arranged between the picture source and the picture transmission device in which the picture transmission device can be secured in its momentary position after a torsion movement in the fiber optics section (Column 2 lines 63-68; Column 3 lines 1-27).

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cole in view of Gerwers and in further view of Lerner (U.S. Patent No. 4,541,698).

Cole and Gerwers disclose all of the proposed limitations except for an eyepiece with a setting mechanism for setting the optical elements. Lerner, however, discloses a diopter adjustment for adjusting a fiberscope eyepiece to an individual's eyesight.

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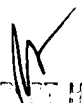
It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a setting mechanism for setting the optical elements of a fiberscope to an individual's eyesight. Such a mechanism is old and well known in the art for correctly focusing light from an eyepiece to a viewer's eye. The adjustment mechanism would have been advantageous to make the eyepiece adjustable for different viewers and different shapes of eye sockets in order to adjust the focal point of the light emitted from the fiberscope.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael H Caley whose telephone number is (703) 305-7913. The examiner can normally be reached on M-F 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (703) 305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

mhc  
January 8, 2003

  
ROBERT H. KIM  
SUPERVISOR  
JAN 10 2003